

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

MIGUEL QUINONES,

Defendant.

18 Cr. 472-1 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On April 25, 2022, defense counsel asked the Court to unseal Defendant Miguel Quinones's sentencing transcript with certain portions redacted. (See Dkt. #119). On April 27, 2022, the Court directed defense counsel to submit to the Court, via email, a copy of Defendant Miguel Quinones's sealed sentencing transcript with the proposed redactions applied. (*Id.*). The redacted transcript is appended to this Order. The Clerk of Court is directed to file this Order and the redacted transcript on the public docket.

SO ORDERED.

Dated: May 3, 2022
New York, New York



KATHERINE POLK FAILLA
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

18 Cr. 472 (KPF)

5 MIGUEL QUINONES,

6 Defendant.

Sentencing

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7
8 New York, N.Y.
9 December 16, 2021
3:40 p.m.

10 Before:

11 HON. KATHERINE POLK FAILLA,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
16 Southern District of New York

BY: NICHOLAS FOLLY, ESQ.

Assistant United States Attorney

17 LAW OFFICE OF ALAIN V. MASSENA

18 Attorneys for Defendant

BY: ALAIN V. MASSENA, ESQ.

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name for
3 the record, beginning with the government.

4 MR. FOLLY: Good afternoon, your Honor. Nicholas
5 Folly for the government.

6 THE COURT: Good afternoon, sir. Thank you.

7 MR. MASSENA: Good afternoon, your Honor. Alain
8 Massena for Mr. Quinones.

9 THE COURT: Sir, good afternoon to you as well.

10 And Mr. Quinones, good afternoon to you.

11 THE DEFENDANT: Good afternoon, your Honor.

12 THE COURT: What I will tell the parties is, if you
13 find it easier to speak while seated so that we can hear you
14 with the mask on, that's fine. Whatever is working best for
15 you.

16 Let me, though, make sure I have the materials I
17 should have for this proceeding. I have a presentence
18 investigation report, and it is dated September 30th of 2019; I
19 have a defense sentencing submission dated December 3rd of
20 2021, and it incorporates by reference a prior sentencing
21 submission as exhibits to that submission; I have the
22 government's sentencing submission dated December 9th of 2021.
23 I know that there is an earlier preliminary order of
24 forfeiture. I believe that was executed as well.

25 Mr. Folly, was the presentence investigation report

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1 ever updated, to the best of your knowledge, sir?

2 MR. FOLLY: Your Honor, I believe that I have the same
3 version that you are referring to with the same date.

4 THE COURT: Okay. And Mr. Massena, do you have a
5 later version?

6 MR. MASSENA: I do not, your Honor.

7 THE COURT: Okay. Then I would be asking the question
8 of what I should know that has happened since this. And I'm
9 aware, for example, and from Mr. Massena's sentencing
10 submission, of the issues with the MDC, the fire, the
11 lockdowns, the pandemic. Those are things I don't think I need
12 additional updating on. But to the extent there are medical or
13 mental health issues that need updating or anything else, I
14 wanted to be sure I have the most up-to-date version.

15 So Mr. Folly, if you too are working from that
16 presentence investigation report, then that is the one I will
17 be working from as well. Thank you.

18 MR. FOLLY: Your Honor, I just wanted to confirm the
19 date that you read. Was that date report revised September 30,
20 2019?

21 THE COURT: That is correct, sir.

22 MR. FOLLY: Okay. Thank you.

23 THE COURT: Mr. Folly, from the government's
24 perspective, is there anything else that I should have?

25 MR. FOLLY: Your Honor, I believe there was one

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1 additional filing made today by Mr. Quinones. That was Docket
2 No. 111.

3 THE COURT: Ah.

4 MR. FOLLY: And I want to confirm that your Honor has
5 that as well.

6 THE COURT: I had a suppression hearing until right
7 before this, so let me take a moment then to make sure I
8 reviewed this. Thank you.

9 MR. MASSENA: Thank you.

10 THE COURT: Mr. Folly, you've seen this submission,
11 sir, yes?

12 MR. FOLLY: Yes, your Honor.

13 THE COURT: Perhaps you could help me understand it,
14 because to either confirm with the parties or to remind the
15 parties, my own review of the docket indicates that in November
16 of 2018, there was a motion for a cautionary notice on these
17 properties. That was a motion that was contested by the
18 defense, particularly an opposition in March of 2019. But
19 thereafter, I agreed with the government in a hearing that was
20 held in May, and then in June I entered the order. So I guess
21 what confuses me is, I had been operating under the assumption
22 that the government was not aware of the transmission of the
23 power of attorney to a third party or of the sale of the
24 property. Based on the document that I see from Mr. Epstein's
25 files, Mr. Folly, you were aware that a power of attorney had

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1 been granted in favor of a third party, but perhaps you did not
2 understand that this property was being sold. So tell me,
3 please, what you can, because what I'm really trying to figure
4 out is, if this happened and the government did not know about
5 it, I have one set of views; if this happened and the
6 government did know about it, I might have another set of
7 views; and if this happened and the government was absolutely
8 fine with it, I might have still another set of views. So
9 Mr. Folly, do you recognize the email discussions, that
10 particular email that is included as an exhibit to
11 Mr. Massena's letter?

12 MR. FOLLY: Yes, your Honor. So I'll do my best to
13 add some context and clarity, to the extent possible, on this
14 issue.

15 We did become aware at a certain point in time about
16 the power of attorney that's referenced therein. Sitting here
17 right now, I don't have the precise date that we became aware
18 of that, but certainly by the time of this email exchange, it's
19 clear to me that we were aware of it. The government never
20 authorized any sale of that property, and I think that's --
21 there's a partial window into that in this email exchange,
22 where it says, in bold, underlined, that we have not provided
23 authorization for that sale. And as your Honor is aware, at
24 this juncture in time, the property had been included in your
25 Honor's consent preliminary order of forfeiture. We never gave

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1 authorization for the sale of the property, that communications
2 with the parties that are referenced in this email stopped.
3 Unbeknownst to the government, the sale did go forward without
4 the government's authorization or awareness.

5 THE COURT: So who is Maria Luisa Inserni? Is she an
6 attorney? Is she a real estate agent? What was her role? She
7 makes reference to clients of hers being the buyers of this
8 property.

9 MR. FOLLY: Yes. Your Honor, our understanding -- it
10 was represented to us, I believe, that she was I believe an
11 attorney, although I'm not -- that's my recollection. I don't
12 recall that there was any independent verification of that, but
13 that is what was communicated to the government, and that she
14 represented the buyers in connection with the sale.

15 THE COURT: All right. So she says, basically, my
16 clients are buyers and they're ready to do this. And there was
17 a power of attorney; and you say, Mr. Quinones has no authority
18 to sell without our consent, we're not giving it; and she says,
19 I await, as do my clients. I presume she's awaiting the
20 consent. And she notes, helpfully, in case you need to know,
21 that of course the proceeds can be assigned directly to the
22 Marshals Service, which is not the same thing as getting your
23 consent. Did she thereafter just sell the property without
24 anybody on the prosecution team giving consent? And if so, how
25 come you're not getting it back from the buyers?

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1 MR. FOLLY: So, your Honor, our office does have every
2 intention of getting the properties back.

3 THE COURT: I see. Okay.

4 MR. FOLLY: I'm doing my best on memory, so I want to
5 make that clear, but my recollection is --

6 THE COURT: But sir, this is sufficiently important to
7 me that I'm hoping you're prepared to speak to this.

8 MR. FOLLY: Yes, your Honor, absolutely. But my
9 recollection is, if you asked as to this individual Maria Luisa
10 Inserni, I believe that she may have actually at a certain
11 point in time stopped representing these individuals and did
12 not participate in the sale.

13 THE COURT: I see. So I first learned about the sale
14 of this property in connection with this sentencing. At least
15 that's the best of my recollection. When did the government
16 learn that the property had been sold?

17 MR. FOLLY: I don't have that -- I don't have a date
18 so I don't want to estimate when we first learned about it.

19 THE COURT: Okay. Just one moment, please, sir.

20 MR. MASSENA: Your Honor, if --

21 THE COURT: Just one moment, please, sir. Thank you.

22 I'm looking at the various requests for extensions in
23 this case, and I believe that the requests for extensions were
24 predicated first on the COVID-19 pandemic and then on the need
25 to obtain new counsel for Mr. Quinones. I don't know that

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1 there was ever a request predicated on the government's
2 learning about this information, but perhaps there was.

3 MR. FOLLY: I'm fairly certain that there was.

4 THE COURT: There was eventually. All right.

5 MR. FOLLY: It was in at least one or more of our
6 letters.

7 THE COURT: Okay. That's fine. Thank you. And we'll
8 figure out which one that is.

9 Mr. Massena, do you wish to add something?

10 MR. MASSENA: No, your Honor. I know the Court was
11 looking for some sort of timeline. I know that at the very
12 least the government was aware that the property was sold by
13 March or February of 2020.

14 THE COURT: I'm sorry. 2020?

15 MR. MASSENA: 2020.

16 THE COURT: And sir, what is the document that you're
17 looking at that gives you that time frame, please?

18 MR. MASSENA: I was looking at an investigatory report
19 by the agents, the government's agents, regarding the sale of
20 the property.

21 THE COURT: I see. Okay.

22 Yes, I see. February 10th of 2020 is what I'm being
23 advised. I misspoke earlier by suggesting that the
24 adjournments were predicated in the first instance on the
25 pandemic. We were not yet aware of the pandemic when the first

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1 adjournment was requested in February of 2020.

2 And Mr. Folly, just to confirm, it is the government's
3 intention to try and undo this sale?

4 MR. FOLLY: Your Honor, yes. We have had several
5 conversations with the supervisors of the asset forfeiture unit
6 and we do have the intention of seeking to -- I don't know what
7 the formal process is, but to get the property back, title back
8 in the United States, to the United States.

9 THE COURT: Thank you.

10 Okay. Now I've gotten us off track, which is not my
11 intention. Mr. Folly, you correctly pointed out that today's
12 letter was a letter that I should have included, and now I have
13 looked at it. So to the best of your understanding, should
14 there be anything else that I should have in connection with
15 sentencing?

16 MR. FOLLY: No, your Honor.

17 THE COURT: Thank you.

18 And Mr. Massena, from your perspective, sir, anything
19 else I should have in connection with sentencing?

20 MR. MASSENA: No, your Honor. Mr. Folly brought up
21 the letter.

22 THE COURT: Yes. Thank you.

23 Mr. Folly, has the government had -- and I suspect the
24 answer to this question is yes -- has the government had a
25 sufficient opportunity under Federal Rule of Criminal Procedure

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1 32 to review the presentence investigation report in this case?

2 MR. FOLLY: Yes, your Honor.

3 THE COURT: There have been some suggested changes to
4 that report, so I'd like to review those with the parties. But
5 actually, if the parties will indulge me, I'd actually like to
6 just step back a moment.

7 Mr. Massena, you've asked me, I think, in recent weeks
8 to strike certain materials from the record, but then some of
9 those materials I believe were things that you've also asked to
10 incorporate in your sentencing submission. So it may be that
11 what you're actually asking is for something to be sealed. I
12 just want to make sure I understand what you think I can and
13 cannot consider. And then separately, sir, I believe that
14 there may be one portion, if not two portions, of today's
15 sentencing that might involve sensitive information, and I'm
16 wondering if, when those opportunities present themselves, if
17 you would want the transcript to be sealed in part.

18 MR. MASSENA: To your second question, yes, your
19 Honor. I usually ask for that towards the end, but I will ask
20 for that now, as to the two sensitive portions, which one
21 refers to [REDACTED], and two refers to [REDACTED]
22 [REDACTED] I would ask that those two portions be sealed.

23 And your Honor, as to your first question regarding
24 the striking, or I guess more appropriate would be sealing, I
25 believe it was Docket 63 and Docket 107. I came to learn that

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1 sensitive information was contained in those documents, so I
2 would ask that they be sealed, your Honor.

3 THE COURT: Does the government have any opposition to
4 the sealing of docket entries 63 and 107?

5 MR. FOLLY: No, your Honor.

6 THE COURT: Those materials are sealed and not
7 stricken. I have considered them. I will continue to consider
8 them. Mr. Massena, I appreciate the clarification.

9 MR. MASSENA: Thank you. However, your Honor, I did
10 file 108 replacing 107.

11 THE COURT: I did see that.

12 MR. MASSENA: And I thought that would be the cleaner
13 way to do it, Judge.

14 THE COURT: Perhaps, yes. Let's keep 63 and 107 under
15 seal. Thank you. Okay.

16 MR. MASSENA: Thank you, Judge.

17 THE COURT: Mr. Massena, Mr. Epstein noted proposed
18 changes to paragraphs 7, 72, and 91. Are you adopting those
19 requests, sir?

20 MR. MASSENA: Yes, your Honor.

21 THE COURT: And Mr. Folly, are you familiar with the
22 requests? I can also summarize them if need be.

23 MR. FOLLY: Your Honor, if you wouldn't mind
24 summarizing them.

25 THE COURT: That's fine.

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1 The issue with paragraph 7, as I understand it, is
2 that when there is discussion of the forfeiture obligation, the
3 defense believes that the proper way of calculating them is as
4 a forfeiture obligation of \$232,500, satisfied in part by the
5 sale of the property, which may end up being a moot point,
6 whereas at least paragraph 7 as it now stands suggests both
7 that Mr. Quinones is to pay this money and that he must also
8 forfeit the property. So perhaps I should understand better
9 the forfeiture obligation. I thought it was a numerical
10 figure, \$232,500, which might end up being satisfied in whole
11 or in part by the sale of the properties. Is it the
12 government's view that there is both a monetary component and
13 the property component?

14 MR. FOLLY: Your Honor, my understanding is consistent
15 with yours, that he has agreed to forfeit -- well, the
16 specifics on the current view, which is the \$232,500, as well
17 as all right and title and interest in that property, and that
18 the money judgment could be satisfied by the sale of that
19 property.

20 THE COURT: Okay. I'll make sure that we track the
21 language of the plea agreement.

22 With respect to paragraph 72 -- I don't think you have
23 objections to this, sir -- the names of certain family members
24 are presented incorrectly.

25 And then in paragraph 91, there's a reference to a

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1 Santos, who is in fact Mr. Quinones.

2 MR. FOLLY: Yes, your Honor. We have no objection to
3 those revisions.

4 THE COURT: All right. I will order those changes to
5 be made to the presentence investigation report.

6 Mr. Folly, you included in the government's sentencing
7 submission three paragraphs regarding post-indictment conduct.
8 I understood that that material or that information was
9 information on which the parties had agreed and that it was the
10 government's request that the three paragraphs be entered into
11 or included in the presentence investigation report. Did I
12 understand that correctly?

13 MR. FOLLY: Your Honor, yes. And I would like to
14 clarify, I've had further discussions with Mr. Quinones's
15 counsel to make sure that we are in full agreement on this
16 issue. There is one sentence, the very last sentence of the
17 second paragraph, which is on page 3 of the government's
18 sentencing submission --

19 THE COURT: Yes, sir.

20 MR. FOLLY: -- which says the government received no
21 such communications.

22 THE COURT: Yes.

23 MR. FOLLY: Your Honor, we've --

24 THE COURT: Given the --

25 MR. FOLLY: -- seen the paragraph. It seems that

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1 there is a dispute about the characterization of the language
2 that's used there.

3 THE COURT: Yes.

4 MR. FOLLY: Your Honor, the government does not
5 believe that it's necessary to include that specific assertion
6 in the amended PSR and we would therefore, with the consent of
7 the defendant, propose the inclusion of those paragraphs with
8 the exception of that sentence.

9 MR. MASSENA: We join in that application.

10 THE COURT: I will include the three paragraphs minus
11 the last sentence of the second paragraph. Correct? "The
12 government has received no such communications"; that's the
13 sentence to delete?

14 MR. FOLLY: Yes, your Honor.

15 THE COURT: That will be deleted. Thank you.

16 MR. MASSENA: Your Honor --

17 THE COURT: Just one moment, please, sir. Thank you.
18 Actually, Mr. Massena, I'll hear from you.

19 MR. MASSENA: Your Honor, I don't know if you were
20 wrapping up in terms of objections or --

21 THE COURT: I'd like to hear from the parties
22 regarding the calculation of the guidelines.

23 MR. MASSENA: All right.

24 THE COURT: So whichever of you speaks first is fine.
25 Mr. Massena, I was actually going to get to you next and ask

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1 you the same exact questions, so perhaps I can do that. I'll
2 finish with Mr. Folly and then turn to you.

3 Mr. Folly, there's an inclusion in the probation
4 office's presentence investigation report of a two-level
5 enhancement for the use of violence or a credible threat of
6 violence. That's not included in the plea agreement. I'm not
7 asking the parties to violate their obligations under the plea
8 agreement. I'm asking, however, why the probation office is
9 wrong in including it, because my recollection of the
10 sentencing with Mr. West causes me to recall extensive
11 discussion about abuse perpetrated on Mr. West by Mr. Quinones,
12 including locking him in a car trunk for several days, after
13 beating him with a gun, and so -- Mr. Quinones, you will stop.

14 THE DEFENDANT: Sorry.

15 THE COURT: Take this seriously, sir. This is
16 serious.

17 THE DEFENDANT: I am taking it seriously, but I just
18 can't believe that he said that because that never happened.

19 THE COURT: Mr. Folly, again, that was represented to
20 me at the sentencing. It was also contained in the presentence
21 investigation report. If the government's view is that the
22 cooperator was mistaken about this, please tell me. If there's
23 some other reason why the government is not including this
24 enhancement, please tell me. But based on my sentencing of
25 Mr. West and what I understood to be included in that

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1 presentence investigation report, and this one, I would like to
2 understand why it is the government's belief that the
3 enhancement is not warranted.

4 MR. FOLLY: Yes, your Honor.

5 As your Honor indicated, the government is standing by
6 the plea agreement and the stipulated guidelines therein and
7 the calculation.

8 With respect to paragraph 43 that your Honor is
9 referencing, the government understands that probation has
10 included that. I believe that's likely as a result of the
11 information contained in paragraph 18 --

12 THE COURT: Correct.

13 MR. FOLLY: -- which does make reference to
14 Mr. Quinones's physical beating of another member of the drug
15 trafficking organization. Your Honor, we understand why
16 probation has reached that conclusion. However, we do still
17 stand by the plea agreement and the stipulated guidelines
18 therein.

19 THE COURT: Mr. Folly, let me ask you the question a
20 little bit differently. Paragraph 18 indicates that
21 Mr. Quinones had a gun, threatened violence, and beat up at
22 least one other member of the conspiracy. Is that sentence in
23 the presentence investigation report incorrect?

24 MR. FOLLY: No, your Honor. We're not challenging it.
25 We agree that the factual representations in paragraph 18 are

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1 correct, and we also understand that defense counsel is not
2 disputing those factual assertions either.

3 THE COURT: Okay. All right. Thank you, sir. Just
4 please give me a moment to make sure I've asked you all of my
5 questions about the presentence investigation report.

6 Okay. Mr. Massena, I appreciate your patience, sir.
7 Have you and has your client had a sufficient opportunity under
8 Federal Rule of Criminal Procedure 32 to review the presentence
9 investigation report in this case?

10 MR. MASSENA: Yes, your Honor.

11 THE COURT: And we have made some changes to
12 paragraphs 7, 72, and 91, and then the addition we've just
13 talked about. Apart from those, sir, does the defense have any
14 objections to the contents of the presentence investigation
15 report?

16 MR. MASSENA: Yes, your Honor. And it's specifically
17 to paragraph 18. I don't know if we need to go into depth.
18 However, Mr. Epstein's sentencing memorandum reflects that it's
19 our position that the plea agreement calculation should
20 control, and that --

21 THE COURT: One moment, please, sir. And of course,
22 that would counteract the assessment in paragraph 43.

23 MR. MASSENA: Correct.

24 THE COURT: My question is a little bit different,
25 which is, if I could just be really pointed about it: Did

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1 Mr. West lie to me, sir?

2 MR. MASSENA: Your Honor, my client has indicated to
3 me that he never hit Mr. West with a gun. He did indicate that
4 he got into -- he did get into a dispute and a fight, a
5 physical altercation, with Mr. West, but that was over 14 years
6 ago and it was not related to the drug trafficking
7 organization.

8 THE COURT: And he didn't put him in the trunk of a
9 car?

10 MR. MASSENA: He did not put him in the trunk of a
11 car.

12 THE COURT: It matters to me. I mean, I had a whole
13 sentencing on this, so I'm surprised to hear this. All right.
14 I'm not sure that it is worth it for me to have a *Fatico* on
15 this issue, but I understand that my options are to either
16 credit Mr. West and discredit your client, to do the opposite
17 of that, or to conclude that the particular paragraphs will not
18 impact my ultimate sentencing decision. If there is another
19 option I have available to me, I welcome hearing about it from
20 the parties, but I think those are my options.

21 Mr. Folly?

22 MR. FOLLY: Your Honor, I agree that those are the
23 Court's options.

24 THE COURT: Okay. Thank you.

25 Mr. Massena?

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1 MR. MASSENA: I agree those are the Court's options as
2 well.

3 THE COURT: Mr. Massena, other than that objection,
4 which I wish I had known about before this, are there other
5 objections to the content of the presentence investigation
6 report?

7 MR. MASSENA: No, your Honor. And your Honor, the
8 reason why counsel did not bring that to the Court's attention
9 is because the parties had agreed to honor the new
10 calculations. Therefore, delving into the facts, even if he
11 did have a physical altercation with Mr. West, delving into the
12 facts, the detail of the violence -- and I understand the
13 violence is important to your Honor -- didn't change the
14 calculations that we had agreed to.

15 THE COURT: That explains the failure to contest
16 paragraph 43. It doesn't quite explain the failure to contest
17 paragraph 18, because that is very significant to me. But I
18 will see what I do with it. Thank you.

19 Mr. Massena, at the back of the presentence
20 investigation report are mandatory, standard, and special
21 conditions of supervised release. My deputy advises me that
22 you and your client have reviewed those conditions; is that
23 correct?

24 MR. MASSENA: That is correct, your Honor.

25 THE COURT: With particular respect to the special

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1 conditions, sir, which include a search condition, a condition
2 of treatment or testing for drugs or alcohol use, and a
3 recommendation of supervision in the district of residence, do
4 you have an objection to any of those conditions?

5 MR. MASSENA: No, your Honor.

6 THE COURT: May I speak with your client directly
7 about the presentence investigation report?

8 MR. MASSENA: Yes, your Honor.

9 THE COURT: Thank you.

10 Mr. Quinones, you've heard me speaking with your
11 attorney, and with the attorney for the government, for a while
12 now, about the presentence investigation report. Were you able
13 to follow what we were discussing?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And my understanding is that you and your
16 attorney have reviewed the presentence investigation report in
17 this case; is that correct?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: He has advised me of several paragraphs
20 for which he would like modifications or corrections. Were you
21 able to listen to us talk about those?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Other than those, sir, are there other
24 paragraphs that you have objections to?

25 THE DEFENDANT: No.

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1 THE COURT: At the back of the report, sir, are
2 mandatory, standard, and special conditions of supervised
3 release. I understand that before this proceeding you were
4 able to review those with your attorney; is that correct?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: There are special conditions I was
7 speaking about with your attorney which include a search
8 condition under certain circumstances, a drug testing or
9 alcohol testing or treatment condition as appropriate, and a
10 recommendation that you be supervised in your district of
11 residence. Is that correct, sir, that you reviewed those
12 conditions with your attorney?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: He advises me that you have no objection
15 to those conditions; is that correct?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: If I refer to these conditions as a group,
18 if I call them the mandatory, the standard, and the special
19 conditions of supervised release, without reading them word for
20 word into the record, will you understand what I'm talking
21 about?

22 THE DEFENDANT: Yes.

23 THE COURT: May I do that? May I refer to them as a
24 group without reading them word for word into the record?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: I thank you. I imagine that there are
2 corrections to be made to the presentence investigation report,
3 so I will hold off on that document at this time.

4 Mr. Folly, I'd like to hear from the government
5 regarding sentencing in this case. I think you have a sense of
6 some of the issues that have been occupying my time lately. I
7 also would like you to comment -- and we will seal that portion
8 of the transcript -- on the discussions or the assertions that
9 the defense has made regarding [REDACTED]

10 MR. FOLLY: Yes, your Honor.

11 First and foremost, your Honor, it's clear, and there
12 does not appear to really be much of a dispute, that the
13 defendant engaged in extremely serious criminal conduct. He
14 was involved for a period of approximately two years in a
15 heroin and fentanyl drug trafficking organization. He occupied
16 a manager role in that organization and oversaw numerous
17 street-level drug dealers, and there really is no dispute about
18 that. He also, in the course of that conspiracy, carried a
19 gun, and there is no dispute about that. Your Honor is
20 familiar more generally with the nature of this drug
21 trafficking conspiracy. The defendant and his co-conspirators
22 were primarily engaged in street-level sales, and the
23 defendant, as I indicated before, was responsible for
24 overseeing the logistics of that operation.

25 I would note the defendant, during the course of this

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1 conspiracy, did use a basement of a residential building to
2 conduct part of the drug trafficking operation out of.

3 THE COURT: And I believe from reading the sentencing
4 materials that his family or his mom did have an interest in a
5 building at one point. This is not a building in which any
6 family member had an interest?

7 MR. FOLLY: Your Honor, not to my knowledge. I'm not
8 aware of that.

9 THE COURT: And the folks behind you are shaking their
10 heads no as well. I appreciate knowing that. Go ahead, sir.

11 MR. FOLLY: And I mention that because I do think it's
12 relevant to the conduct that he chose to conduct a portion of
13 it right in the mix of ordinary, everyday civilians and brought
14 all the associated dangers of that operation right into an
15 apartment building by doing that.

16 The defendant's business was quite lucrative. It's
17 clear he made at least \$232,000 from that operation. That's
18 not an insignificant amount of money. He was not making the
19 amount of money that a purely street-level dealer would make.
20 He was making an amount that seems to reflect his position,
21 which was, although not at the very top as a leader of the
22 whole operation, more rightfully in the middle as a manager who
23 was supervising a crew of street-level drug dealers, and was
24 being compensated significantly for doing that.

25 We noted -- and I believe it's relevant -- that during

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1 the course of this conspiracy, members of the DTO learned that
2 narcotics that had the same stamp as the defendant's
3 organization was using had been linked to an overdose, and the
4 defendant's response to that was to switch the stamp. Your
5 Honor, that did strike me as a juncture where there really was
6 the chance to have a wake-up call in recognition of the
7 seriousness of what the defendant was engaged in and the real
8 effects that that could have on people's lives. Ultimately the
9 government did not, in the course of its investigation, learn
10 of sufficient evidence to link that particular overdose to
11 drugs the defendant was dealing, but it's clear that they had
12 an understanding and awareness that their drugs may have caused
13 an overdose and took steps in response to that with that
14 knowledge in mind to avoid being linked to it. And I think
15 what that goes to, from the government's perspective, is,
16 again, an awareness of the seriousness of the harm that could
17 be caused by dealing these drugs and then thereafter the
18 decision to keep doing it instead of stepping back from the
19 operation.

20 Your Honor, the conduct that took place after the
21 defendant was charged, in the government's view, is
22 significantly relevant to sentencing today. And it's clear
23 that the defendant helped to facilitate the sale of this
24 property that was subject to forfeiture and arranged for
25 someone to travel to Puerto Rico and get the cash proceeds from

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1 that sale, which are gone. They were never provided to the
2 government. The government does not know where that money
3 went, although it's clear some of it went to the defendant's
4 friends and family.

5 THE COURT: There's a suggestion, sir, in the
6 materials related to the plea -- and perhaps this was a
7 misapprehension that I had, but I thought I understood from
8 Mr. Epstein that the sale of these properties would more than
9 cover the forfeiture figure, and yet if the forfeiture figure
10 was \$232,500, the sale was at \$175,000, so my question is
11 whether the government has reason to believe that this sale was
12 below market so that it could be conducted in the face of any
13 notices or what I consider to be clouds on the title.

14 MR. FOLLY: Your Honor, it seems certainly possible
15 that that's the case, particularly given that our understanding
16 is that this was a cash sale for \$175,000, which, based on
17 appraisals that the government had, was below market. And not
18 to get back into this, but that was part of the reason the
19 government had not, up until that point in time, consented to
20 the sale is that our understanding of the terms of it were that
21 they were below the value of the property.

22 It is particularly concerning that despite being
23 charged in this case, entering a guilty plea, and facing the
24 prospect of sentencing, that the defendant was still in the
25 mind-set of trying to use criminal proceeds however he saw fit,

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1 despite having a court order that that money was not rightfully
2 his and that it belonged to the government.

3 THE COURT: And sir, just so that I understand
4 something you said a moment ago, you said that the government
5 understood the sale to be below market and that's why you did
6 not consent to it. Was there a possibility -- let's say the
7 sale had been for a million dollars, something that I think we
8 all concede is above market. Would the government have
9 consented to that sale? Because I'm not sure that all of the
10 niceties of forfeiture had actually taken place.

11 MR. FOLLY: Your Honor, my understanding is that there
12 is a mechanism that has been used in other cases where in that
13 situation we would come back to the Court, we would in fact get
14 a new court order that would authorize the sale, and that there
15 would be specific terms of the sale that had to be adhered to,
16 including that the proceeds from the sale were immediately
17 wired to the Marshals or to an escrow account for an attorney
18 connected to the sale. All of that is to say, my understanding
19 is that there is a way to do it. It can be facilitated. It
20 would involve an order from the Court. It would also involve
21 consultation with the Marshals, who would typically be given
22 some right to approval in connection with the sale so that they
23 can ensure that it was at fair market value or close to fair
24 market value.

25 Your Honor, another deeply troubling aspect of this

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1 case, going back to the concept of deterrence and specific
2 deterrence as to this defendant, is that this defendant had
3 engaged in a substantially similar heroin conspiracy previously
4 and been sentenced to a significant term of imprisonment of
5 what I believe was 84 months' imprisonment, and that despite
6 serving that sentence, after being released, began
7 participating in the instant drug conspiracy with a member of
8 that prior conspiracy, as your Honor is familiar with the
9 co-defendant Michael West. The combination of the defendant's
10 criminal history, serving a substantial sentence on a very
11 similar case, being released from that sentence, choosing to
12 return to drug distribution, particularly heroin, and in
13 addition, the defendant's conduct while this case was pending,
14 all give the government significant concern about the need to
15 deter this defendant and also protect the community and the
16 public from further crimes by this defendant.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

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21 [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED] Ultimately, your Honor, Mr. Quinones proffered
2 information to the government regarding the property in Puerto
3 Rico and provided them with the town where they could find it.

4 THE COURT: Sir, I would be so careful if I were you
5 talking about the property in Puerto Rico.

6 MR. MASSENA: I'm not going to talk about it anymore.
7 Thank you, Judge.

8 THE COURT: I'm just saying, I find it offensive what
9 your client did after I signed a series of orders about it and
10 after putting everyone through the drama of motion practice on
11 the issue. He clearly knew it was inappropriate. So I know
12 you want me not to think about it, but I am thinking about it.
13 So I'd be careful how often you make mention of it, and how you
14 do so. But I'll let you continue.

15 MR. MASSENA: I appreciate that, your Honor.

16 And I tread lightly with this particular point as
17 well, your Honor, regarding the violence, which I know is very
18 concerning to the Court. What I will say, your Honor, is, as
19 it relates to the violence, the government has brought forward
20 one particular instance of violence, as far as I'm aware of,
21 and that's the violence regarding a co-conspirator. Your Honor
22 has had the opportunity to hear hundreds if not thousands of
23 cases involving drug traffic organizations. And I would
24 submit, your Honor, very carefully -- as I said, I tread very
25 carefully with this particular point -- that the level of

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1 violence involved here does not rise to the level of the type
2 of drug traffic organization that the Court typically hears.
3 Obviously any level of violence is unacceptable, and
4 Mr. Quinones understands that, and he accepts responsibility
5 for his role in any violence alleged. However, your Honor, I
6 would ask that the Court consider that the government putting
7 forth this simple instance, although it may be serious,
8 considering the breadth of the types of drug trafficking
9 organizations this Court has had an opportunity to hear, that
10 the violence, I would submit, is somewhat less than the typical
11 case, your Honor.

12 And also, as it relates to the overdose, the
13 allegation of overdose, Mr. Quinones submits that he did not
14 have control regarding the changing of any stamps, your Honor,
15 so I just wanted to make the Court aware of that as well.

16 THE COURT: Of course. But was he obligated to remain
17 in the organization after the incident?

18 MR. MASSENA: Obviously not, your Honor.

19 THE COURT: Thank you.

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 And while we're discussing the trauma faced by
4 Mr. Quinones, I point to the fact that he also faced trauma
5 while being incarcerated at MDC. And the Court is very well
6 versed in the horrific nature, the inhumane nature that
7 Mr. Quinones had to deal with while he was at MDC.

8 But despite that, your Honor, Mr. Quinones did make an
9 attempt to better himself and to better his skills. The Court
10 has within the sentencing submission numerous letters of
11 support from inmates who indicate regarding the kindness of
12 Mr. Quinones. The Court also has letters from counselors at
13 MDC that also speak highly of Mr. Quinones as well. I believe
14 that these should weigh as well into the Court's consideration
15 of what an appropriate sentence is.

16 We are asking for the ten-year minimum for
17 Mr. Quinones. Ten years is a significant amount of time, your
18 Honor. It will be the longest amount of time that Mr. Quinones
19 will have faced incarcerated. It does meet the aims of
20 specific deterrence and general deterrence, especially when one
21 considers the conditions that Mr. Quinones had to face while
22 incarcerated at MDC, your Honor.

23 THE COURT: Thank you. I believe I've asked the
24 questions along the way I've had. Is there anything else you'd
25 like me to know?

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1 MR. MASSENA: No, your Honor. Oh, just one moment,
2 your Honor.

3 THE COURT: Of course.

4 (Mr. Massena conferring with the defendant)

5 MR. MASSENA: No, your Honor. Thank you.

6 THE COURT: You're good, sir?

7 MR. MASSENA: Thank you, Judge.

8 THE COURT: Okay. Thank you.

9 Mr. Quinones, at this time if you'd like to speak to
10 me in connection with your sentencing, you are invited to do
11 so. I have to make clear that you are not obligated to speak
12 with me, sir, but you are welcome to do so, and if you want to
13 say something, I'll take it very seriously. Would you like to
14 say something?

15 THE DEFENDANT: Could I read my letter?

16 THE COURT: Is it a letter that you've given to me?

17 THE DEFENDANT: I gave you two letters, but this is
18 something I just wrote. I don't want to take too long.

19 THE COURT: I'll welcome you reading it. And what
20 I'll ask, sir -- and I've just had this experience -- the masks
21 make it difficult sometimes to hear, so if you could speak a
22 little slower and a little louder than you think you need to.
23 And you'll excuse me if I interrupt you from time to time so I
24 can take notes on what you're saying.

25 If you'd like to read that letter, you're welcome to

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1 do so now.

2 THE DEFENDANT: Thank you, your Honor.

3 Thank you, your Honor, for giving me this opportunity
4 to address the Court. I would like to start by sincerely
5 apologizing to anyone who I may have hurt or affected with the
6 stupid and negative decisions I have made throughout my life.

7 THE COURT: I'll just ask you to slow down a little
8 bit, sir. I can't keep up with you. Thank you.

9 THE DEFENDANT: Should I start over?

10 THE COURT: No. I've got that so far. Thank you.

11 THE DEFENDANT: -- stupid and negative decisions I
12 have made throughout my life.

13 I also want to sincerely apologize to my fellow
14 Americans, to the government, and to the Court for being part
15 of the problem instead part of the solution.

16 Your Honor, I know that the Court is aware that this
17 is not my first time in this predicament so I dare not stand
18 here before you, your Honor, and give excuses. All I can truly
19 say is that my past incarcerations, I was young, stupid, and
20 ignorant. But this time around, due to my age, my diagnosis of
21 Type 2 diabetes, the things I have been through and witnessed
22 in the three and a half years I've been incarcerated at MDC
23 Brooklyn so far --

24 THE COURT: Slow down, please, sir. I know it's very
25 important what you have to say. I want to make sure I'm taking

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1 notes on it. Thank you.

2 THE DEFENDANT: Okay.

3 THE COURT: Go ahead.

4 THE DEFENDANT: Okay. In my past incarcerations I was
5 young and stupid and ignorant. But this time around, due to my
6 age, my diagnoses of Type 2 diabetes, the things I have been
7 through and witnessed in the three and a half years I've been
8 incarcerated at MDC Brooklyn so far, and, of course, the
9 coronavirus pandemic, has made me see and think of life a whole
10 lot differently.

11 Your Honor, I am not going to stand here and waste the
12 Court's time any longer than I already have by telling you
13 things I am pretty sure you have heard over and over again from
14 other inmates, such as how MDC Brooklyn is a very dangerous
15 drug- and gang-infested place, with lots of gang violence
16 happening all the time, how inmates were left hungry and cold
17 during a week-long power outage that occurred at MDC in
18 Brooklyn in the winter of 2018, and how inmates have been
19 mistreated during the coronavirus pandemic by being put
20 constantly on 24-hour lockdowns that lasted for months, the
21 spoiled food that was given out on multiple occasions, and so
22 much more.

23 Your Honor, it is very true that I have suffered
24 tremendously mentally and physically in the past three and a
25 half years I've been incarcerated at MDC Brooklyn, but I want

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1 to clarify to the Court that I blame no one for my suffering.
2 I don't blame the administration at MDC Brooklyn for not
3 handling the power outage and the coronavirus pandemic
4 differently than they did; I don't blame the gang members for
5 all the violence and drugs that flows freely at MDC Brooklyn; I
6 don't blame nobody for me catching COVID-19 and all the stress
7 that came with it. I blame no one. I have no one to blame but
8 myself for everything I've been through in the past three and a
9 half years of my incarceration. I know if I would have been
10 out there doing the right thing instead of using and dealing
11 drugs, I would have never been -- I would have never been put
12 in those predicaments.

13 But in a way, I needed all those things to happen to
14 me so that I can really learn my lesson, which I have. Using
15 and dealing drugs is never the way to go. Using and dealing
16 drugs has gotten me nowhere but thrown in prison and has taught
17 me nothing but heartache and pain. I'm done with using -- I'm
18 done with dealing and using drugs.

19 I am going to be 47 years old in two weeks. I know
20 it's time I put all childish things behind me and act like a
21 man. In the past, I never had a plan on what I was going to do
22 when I was released, but this time I do. With the Court's
23 permission, when I am done serving my prison sentence, I would
24 like to be relocated to Puerto Rico, where I have family that
25 are willing to help me out with residency and employment. I

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1 plan on living in Puerto Rico, working hard for the things I
2 need, and just starting life anew, living a sober and drug-free
3 life, because the life I've been living is no life at all.

4 Thank you, your Honor, for giving me this opportunity
5 to address the Court.

6 THE COURT: Sir, thank you very much.

7 Mr. Massena, in light of your client's statements to
8 me, is there anything you wish to add? That's not a hint, sir.
9 I just want to make sure I have everything from both sides
10 before I retire to my robing room to think about the proper
11 sentence.

12 MR. MASSENA: No, your Honor.

13 THE COURT: Thank you.

14 Mr. Folly?

15 MR. FOLLY: Your Honor, just very, very briefly, just
16 because I do think it's relevant to an issue that was raised
17 earlier with respect to paragraph 18 in the PSR and this
18 question about the violence. Your Honor, I just want to
19 note -- because I don't think it is in dispute at all -- when
20 the defendant was arrested, that he had a loaded 9-millimeter
21 gun, and that's reflected in the plea agreement with the gun
22 enhancement. And your Honor, just to sort of add that context,
23 the government doesn't think that it's necessary for there to
24 be any crediting of Mr. Quinones versus crediting of Mr. West
25 on this issue, in light of the fact that there's an even more

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1 significant issue with respect to the willingness to use
2 violence and the possession of a firearm during the course of
3 this conspiracy. So your Honor, I just wanted to flag that and
4 put that on the record because I do think it's relevant to the
5 Court's consideration of the defendant's willingness to use
6 violence as reflected by his possession of that gun during the
7 course of the conspiracy.

8 THE COURT: Of course. And there was an enhancement
9 for the possession of the gun. The issue is, is there an
10 enhancement warranted because of the use. It's one thing to
11 have it; it's another thing to use it. The government, I
12 appreciate, did not include it in the plea agreement. But I
13 had a sentencing of an individual who, to my mind, came before
14 me broken. Mr. West is not right anymore, and in part he says
15 it's because of the episode in the trunk of the car. So if the
16 parties are claiming now I should just completely put out of my
17 mind the fact that a chunk of the sentencing was about the
18 trauma that Mr. West experienced or told me he experienced at
19 the hands of Mr. Quinones, I will try very hard to do that, but
20 you telling me that he was arrested with a gun is different
21 than telling me that he used it or threatened to use it.

22 MR. FOLLY: Certainly, your Honor. And the government
23 is not -- the government is relying on the facts that are
24 within the PSR and does not believe it's necessary to resolve
25 those additional facts that your Honor just pointed to, but it

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1 does seem relevant on the broader issue of this defendant and
2 his willingness to use violence. It does seem relevant, and it
3 hadn't been a part of our original discussion earlier before
4 the defendant spoke, so I just wanted to circle back on it,
5 your Honor.

6 THE COURT: Okay. And Mr. Massena, because the
7 defense speaks last, if you want to comment on what Mr. Folly
8 has just said to me, please do so.

9 MR. MASSENA: One moment, Judge. Can I have a moment,
10 your Honor?

11 THE COURT: Of course.

12 MR. MASSENA: Thank you.

13 (Mr. Massena conferring with the defendant)

14 MR. MASSENA: Your Honor, as the Court may have seen
15 in one of Mr. Quinones's -- in one of the submissions,
16 Mr. Quinones's contention is that he -- the gun was recovered
17 in his home but that he did not walk around with the gun.

18 THE COURT: Yes, sir. And is that it?

19 MR. MASSENA: That is it.

20 THE COURT: All right. Let me please do this. I have
21 much to think about, given what the parties have said to me. I
22 am going to ask for your patience. I will probably be in my
23 robing room for about 10 minutes or so while I address these
24 issues. I will come back as soon as I can. I do ask for your
25 patience while I'm back there. Thank you.

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1 MR. FOLLY: Thank you, your Honor.

2 MR. MASSENA: Thank you, your Honor.

3 THE DEPUTY CLERK: All rise.

4 (Recess)

5 (In open court)

6 THE COURT: Thank you very much for your patience.

7 Please be seated.

8 What I'm going to do now is outline the sentence that
9 I intend to impose, but I will give each side an opportunity to
10 make final objections, legal objections, before the sentence is
11 actually imposed.

12 And in imposing this sentence, I have considered
13 certain factors that are set forth by Congress and Section
14 3553(a) of Title 18 of the United States Code. And a number of
15 them are addressed this afternoon. They include the nature and
16 circumstances of the offense, the history and characteristics
17 of Mr. Quinones, the need for the sentence imposed to reflect
18 the seriousness of the offense, to promote respect for the law,
19 to provide a just punishment for the offense, to afford
20 adequate deterrence to criminal conduct, to protect the public
21 from further crimes by Mr. Quinones, to provide him with needed
22 educational and vocational training, medical care, or other
23 correctional treatment in the most effective manner.

24 I must consider the sentencing guidelines, and I'll
25 speak about them momentarily.

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1 I must consider the need to avoid unwarranted sentence
2 disparities amongst similarly situated defendants.

3 I will adopt the guidelines calculations that the
4 parties have in their plea agreement. And that begins with the
5 base offense level of 34 under guidelines Section 2D1.1, a
6 two-level enhancement for the firearm, a three-level
7 enhancement for Mr. Quinones's managerial role in the
8 conspiracy, and a three-level reduction for acceptance of
9 responsibility, yielding a final adjusted offense level of 36.
10 In doing this, I want to be clear that it doesn't mean I
11 disbelieve what Mr. West said, but from my perspective, I was
12 inclined to vary downward in any event and it was just a
13 question of from what number I would begin the downward
14 variance, so I in theory could simply have kept the enhancement
15 and varied downward that much more, but instead I have not
16 added the enhancement.

17 Mr. Quinones has three criminal history points and is
18 in criminal history category II, and the resulting guidelines
19 range is 210 to 262 months, with a mandatory minimum term of
20 120 months. The probation office recommended a sentence of 240
21 months, but that was off of a higher guidelines range. The
22 government is recommending a sentence within the guidelines
23 range. And the defense is recommending a sentence at the
24 mandatory minimum.

25 And I think in just about all of my sentencings, I am

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1 asked to balance very sad and tragic factors on both sides.

2 I'm balancing unfortunate upbringings or drug dependence or
3 mental health or physical issues, and I'm balancing those with
4 what is very serious criminal conduct. This case is different
5 in some respects. Most of the people I sentence in this
6 context are on the lower rungs of the conspiracy. They are
7 close to Mr. Villanueva, who was himself an addict, and closer
8 to Mr. West than to someone at Mr. Quinones's level.

9 Mr. Quinones was middle management, for lack of a better term,
10 of the charged conspiracy, supervised eight to ten others,
11 supplied drugs, supplied phones, was involved in distributing
12 between 10 and 30 kilograms of heroin, and that to me is more
13 significant than many of the drug conspiracies that I've seen.

14 It is noteworthy to me that Mr. Quinones was not
15 dissuaded by the possibility of harm, and by that I mean,
16 whether or not he himself was responsible for changing the
17 stamp, he certainly could have stopped participating in the
18 organization after the overdose, and decided not to, decided to
19 continue.

20 He was not dissuaded by prior convictions, including a
21 prior federal conviction, including a federal conviction that
22 had a sentence of 84 months. And so there are really serious
23 concerns about deterrence.

24 There is also the looming threat of violence in this
25 particular organization. The parties agree that Mr. Quinones

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1 possessed a gun. I believe that he threatened violence. And
2 then there is the treatment of Mr. West. I understand that
3 that is a subject of much dispute. And yet I will say that I
4 thought Mr. West in his sentencing -- and even if I don't
5 credit the specific events, and I'm being asked not to think
6 about the specific events that he told me -- I will say that he
7 is in part deeply psychologically harmed as a result of the
8 experience, and I will also state that he referred to his
9 relationship with Mr. Quinones as that of master and slave, and
10 so at the very least, there was a threat of violence that
11 Mr. Quinones employed. Whether he actually beat someone, I'm
12 not sure, but the presence of the gun was there for something.

13 And then there is the issue of forfeiture. And it
14 disturbs me that Mr. Quinones had his attorney, in the waning
15 months of his life, fight the government's motion for a
16 cautionary notice while working at the same time to circumvent
17 it. I'm not thinking that this is obstruction of justice
18 conduct -- no one is suggesting that it is -- but it really
19 does detract from the acceptance of responsibility that he
20 otherwise showed by speaking with the government and by
21 pleading guilty.

22 I've also had to balance on the other side what is a
23 truly tragic upbringing and childhood and the losses, many
24 losses that Mr. Quinones has suffered. More than that,
25 however, I focused on the conditions of your confinement, sir,

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1 over the past few years, because I too have seen what you have
2 experienced living at MDC over that period of time. In all of
3 the sentencings -- well, I should say in most if not all of the
4 sentencings that I have done in the pandemic of detained
5 defendants, I have varied downwardly to account for the
6 conditions of confinement, and I will do that here. But I
7 nonetheless believe that a lengthy sentence is needed for just
8 punishment, for respect for the law, and for deterrence.

9 And so I'm varying downward to a term of 190 months'
10 imprisonment, and I am ordering that that term be followed by a
11 term of supervised release of five years, with the mandatory,
12 standard, and special conditions that are outlined in the
13 presentence investigation report.

14 I am not imposing a fine or restitution.

15 I am ordering forfeiture in the amount of \$232,500.

16 And I am imposing a mandatory special assessment of
17 \$100.

18 Mr. Folly, is there any legal reason why I may not
19 impose this sentence?

20 MR. FOLLY: No, your Honor.

21 THE COURT: Mr. Folly, does any modified forfeiture
22 order have to be issued to account for the property or are the
23 government's efforts to retrieve that property sufficient to
24 keep that order as an appropriately tailored order?

25 MR. FOLLY: Your Honor, I believe the existing order

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1 at Docket No. 51 is sufficient for the government's purposes
2 for pursuing that property.

3 THE COURT: I thank you.

4 Mr. Massena, is there any legal reason why I may not
5 impose this sentence?

6 MR. MASSENA: No, your Honor.

7 THE COURT: Mr. Quinones, please rise.

8 Mr. Quinones, after considering all of the factors set
9 forth in Section 3553(a) of Title 18 of the United States Code,
10 I find that a term of 190 months' imprisonment is sufficient
11 but not greater than necessary to comply with all of the
12 purposes of sentencing.

13 That term of imprisonment will be followed by a term
14 of five years of supervised release, with the mandatory,
15 standard, and special conditions we've discussed earlier.

16 I am not imposing a fine or restitution, but I am
17 ordering forfeiture in the amount of \$232,500.

18 And I am imposing a mandatory special assessment of
19 \$100.

20 Do you understand, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: Please be seated.

23 Mr. Quinones, to the extent that you have not waived
24 this in any plea agreement that you may have with the
25 government, you have the right to appeal from your conviction

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1 and from your sentence. If you are interested in appeal,
2 please speak with your attorney because he is familiar with the
3 process. Generally speaking, you have two weeks from the date
4 that the written judgment is entered in order to file your
5 notice of appeal. My expectation is that that judgment will be
6 filed in the next day or so.

7 Do you understand, sir?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. Folly, are there open charges or open
10 counts or underlying charging instruments as to which the
11 government seeks dismissal?

12 MR. FOLLY: Yes, your Honor. The government moves to
13 dismiss at this time all open counts.

14 THE COURT: That motion is granted.

15 And Mr. Massena, are there recommendations that you
16 would like me to make regarding a place of designation or
17 programming?

18 MR. MASSENA: Yes, your Honor. Mr. Quinones would
19 like to be placed within the New York metropolitan area; and
20 also, your Honor, I'd ask that the Court recommend the RDAP
21 program as well.

22 THE COURT: I thought he did that in his prior stint
23 in the Middle District of Pennsylvania?

24 MR. MASSENA: Just one moment, Judge.

25 (Mr. Massena conferring with the defendant)

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1 MR. MASSENA: Mr. Quinones indicates that he did not
2 do the RDAP program, Judge, in his prior sentencing.

3 THE COURT: Thank you. I will make those
4 recommendations. Thank you very much.

5 Mr. Folly, anything else from the government's
6 perspective?

7 MR. FOLLY: No, your Honor.

8 THE COURT: Mr. Massena, anything else from the
9 defense's perspective?

10 MR. MASSENA: No, your Honor.

11 THE COURT: I thank you. And I wish all of you
12 safety, continued safety, and good health during this pandemic.
13 Thank you very much. We're adjourned.

14 MR. FOLLY: Thank you, your Honor. You as well.

15 THE DEPUTY CLERK: All rise.

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